

WAYNE T. GILCHREST  
1st District, Maryland

COMMITTEE ON TRANSPORTATION  
AND INFRASTRUCTURE

COAST GUARD AND  
MARITIME TRANSPORTATION  
WATER RESOURCES

COMMITTEE ON SCIENCE



ORIGINAL

Congress of the United States  
House of Representatives

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COMMITTEE ON RESOURCES 022

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NATIONAL PARKS, RECREATION  
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FEDERAL MARITIME COMM

September 15, 2003

Brant L. VanBrakle  
Secretary, Federal Maritime Commission  
800 North Capitol Street, NW  
Washington, DC 20573

Dear Commissioners:

I am writing to urge your favorable consideration of the petition United Parcel Service (UPS) has filed for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts with their customers.

During consideration of the Ocean Shipping Reform Act of 1998 (OSRA), at which time I chaired the House Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation, Congress reviewed the role of NVOCCs within the ocean shipping industry. Based on the nature of the industry at the time, we determined NVOCCs should be regulated differently than vessel operators. NVOCCs were then mostly small enterprises that neither owned ocean vessels nor the cargo being shipped. In order to protect shippers and to guarantee liability coverage, Congress determined NVOCCs should operate under a published tariff system when dealing with their customers.

Now five years after enactment of OSRA, it is clear the US ocean shipping industry has changed dramatically. The unprecedented consolidation among ocean carriers and resulting loss of major US flagged carriers have led the remaining carriers to create vertically integrated logistics companies that now compete with NVOCCs. The current regulatory scheme, however, puts NVOCCs at a distinct disadvantage and should be revised.

In addition, it is important to note the operational characteristics of UPS that set it apart from other NVOCCs and the concerns about them that led to the different regulatory scheme in OSRA. UPS is no small enterprise, but perhaps the most sophisticated, integrated, intermodal transportation network in the world, which includes air, rail, and surface and NVOCC transportation. It is deemed a "carrier" in the surface and air freight industries. Also, the company makes significant annual capital investments to its asset-based transportation infrastructure.


Under OSRA Congress granted FMC broad exemption authority to deal with anticipated changes in the shipping industry. The UPS petition presents FMC the opportunity to acknowledge these



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changes and promote fair competition that will ultimately benefit the industry and shipping consumers worldwide. I am confident you will give the merits of the UPS petition your every consideration and render an appropriate decision. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Wayne T. Gilchrest". The signature is written in a cursive, flowing style with a large, prominent "W" and "G".

Wayne T. Gilchrest  
Member of Congress